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June 16, 2010

**Via Electronic Filing**

Carol Matthey, Deputy Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

*Re: Allied Wireless Communications Corp.  
Petition for ETC Designation, North Carolina (WC Docket No. 09-197)  
Written Ex Parte Presentation*

Dear Ms. Matthey:

As a follow up to our meeting with you last week, this letter provides additional information in support of our request for an expeditious grant of the petition of Allied Wireless Communications Corporation ("AWCC") for designation as an eligible telecommunications carrier ("ETC") in North Carolina.<sup>1</sup> As discussed below, immediate grant of the AWCC Petition is necessary to restore support for AWCC's high-cost customers and to fulfill the Commission's and the Department of Justice's ("DOJ's") mandates for AWCC to establish a strong and effective competitive presence in the wireless marketplace.

AWCC's North Carolina service area is part of the former ALLTEL Corporation ("ALLTEL") territory that Verizon Wireless was required to divest in partial satisfaction of both a court-approved consent decree and conditions placed by the Commission on its approval of Verizon Wireless's acquisition of ALLTEL.<sup>2</sup> The Verizon Wireless-ALLTEL divestitures

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<sup>1</sup> Petition of Allied Wireless Communications Corporation for Designation as an Eligible Telecommunications Carrier in the State of North Carolina, WC Docket No. 09-197 (filed Apr. 13, 2010) ("the AWCC Petition"); *See also Comment Sought on Allied Wireless Communications Petition for Eligible Telecommunications Carrier Designation in North Carolina*, WC Docket No. 09-197, Public Notice, DA 10-644 (rel. April 16, 2010).

<sup>2</sup> *See* Final Judgment, United States of America et al. v. Verizon Communications Inc., and ALLTEL Corporation, No. 1:08-cv-01878 (D.D.C. Oct. 30, 2008) ("Verizon-ALLTEL Final Judgment"), and *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC for Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and de Facto Transfer of Leasing Arrangements*, WT Docket No. 08-95, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444 (2008) ("Verizon Wireless-Alltel Order"). AWCC acquired the wireless assets formerly operated by ALLTEL in 26 of the total of 105 cellular

“reflect[] the settlement between the DOJ and Verizon Wireless and ALLTEL Corporation designed to eliminate the anticompetitive effects of the Verizon-ALLTEL merger in certain markets.”<sup>3</sup> Particularly to address this concern, the DOJ consent decree required that the buyer should have the “capability (including the ... *financial* capability) of competing effectively in the provision of mobile wireless telecommunications services.”<sup>4</sup>

In its order approving AWCC’s purchase of the divestiture markets, the Commission recognized that it was “authoriz[ing] a new operator in the U.S.” in order “to promote mobile wireless competition.”<sup>5</sup> AWCC’s purchase of the ALLTEL divestiture markets represents the first entry into the U.S. retail wireless market of AWCC’s parent company, Atlantic Tele-Network, Inc. (“ATN”) – although ATN has strong experience in the wireline broadband business in the U.S. and the wireless business internationally.<sup>6</sup>

Because ALLTEL was a designated ETC in North Carolina, the high-cost customers that AWCC acquired in the divestiture received support when they were served by ALLTEL. The divestitures were required to be structured as asset sales rather than corporate mergers, however;<sup>7</sup> thus, AWCC did not acquire ETC status along with the customers. By contrast, Verizon Wireless acquired ETC status in North Carolina when it acquired ALLTEL, the ETC-designated entity.<sup>8</sup> Thus, as a result of the procedural quirks of the divestiture process, USF support for the customers of the new competitive entrant in North Carolina has been interrupted while Verizon Wireless has been receiving uninterrupted support there. (Significantly, Sprint also receives ETC support in these markets.<sup>9</sup>) Until the Petition is granted, AWCC – the new entrant that the FCC and DOJ sought to foster – must compete *without* a subsidy that is necessary to its capex plans for high-cost customers but is enjoyed by its much larger rivals. This result is patently contrary to the goals that led the Commission and DOJ to order the divestitures on terms that

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market areas required to be divested. AWCC is seeking ETC status for its territories in other states before the state commissions.

<sup>3</sup> *Applications of Atlantic Tele-Network, Inc. and Celco Partnership d/b/a Verizon Wireless for Consent To Assign or Transfer Control of Licenses and Authorizations*, WT Docket No. 09-119, Memorandum Opinion and Order, DA 10-661 (rel. April 20, 2010) (“*Verizon Wireless-AWCC Order*”) at ¶ 18.

<sup>4</sup> *Verizon-ALLTEL Final Judgment* at 11-12 (emphasis added).

<sup>5</sup> *Verizon Wireless-AWCC Order* at ¶ 1.

<sup>6</sup> The Commission also found that ATN possesses a “commitment to invest and compete in the markets where it operates” and that it “has developed a balanced and thorough approach to competition within these markets.” *Verizon Wireless-AWCC Order* at ¶ 34, 35. Though AWCC is a new entrant, the scope of the markets that it purchased made AWCC the 8<sup>th</sup> largest wireless carrier in the U.S.

<sup>7</sup> The divestitures were ordered in the Consent Decree to occur as asset sales. Because DOJ merger procedures prevent companies from disclosing large amounts of information to potential purchasers of divestiture assets during the divestiture process, AWCC did not have sufficient information (particularly customer counts and locations) to formulate an ETC petition earlier in the process.

<sup>8</sup> The Bureau also recently granted a requested *pro forma* assignment of the ETC status from ALLTEL to Verizon Wireless. *Federal-State Joint Board on Universal Service; Celco Partnership d/b/a Verizon Wireless; Petitions for Pro Forma Amendment of Eligible Telecommunications Carrier Designations in the Commonwealth of Virginia and the States of Alabama and North Carolina*, WC Docket No. 09-197, CC Docket No. 96-45, Order, DA 10-992 (rel. May 28, 2010).

<sup>9</sup> *Federal-State Joint Board on Universal Service, Sprint Corporation*, CC Docket No. 96-45, Order, 19 FCC Rcd 22663 (WCB 2004).

permit a new competitor to step into ALLTEL's shoes and compete effectively, and necessitates immediate grant of the Petition, effective as of the closing date.<sup>10</sup>

Immediate grant is also necessary because delay imperils service to customers in these rural portions of North Carolina – customers that historically have received support. From January 2009 (when the Verizon Wireless-ALLTEL merger was consummated) until April 2010 (when the divestiture to AWCC was completed), the North Carolina markets at issue were under the management control of a trustee, and the ETC support that previously flowed to ALLTEL was uninterrupted. The trustee quite understandably made build-out plans on the assumption that this support would continue to be available to help fund those infrastructure investments. Purchase orders were placed that are now AWCC's obligation to fulfill, but AWCC is unable to count on the ETC support until its Petition is approved. This unique circumstance also militates in favor of prompt grant of the AWCC Petition.

In sum, the AWCC Petition is the only ETC petition pending before the Bureau that will provide *continuity* of support to customers that historically have received support, and that will effectuate clearly articulated FCC and DOJ wireless competition policy. AWCC respectfully requests that the Bureau grant the AWCC Petition immediately and that the designation be made effective as of the date of the closing of the Verizon Wireless-AWCC divestiture.

Thank you for your attention to this urgent matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Doug / Minster', written in a cursive, fluid style.

Douglas J. Minster

Vice President Government and Regulatory Affairs

cc (by email): Zachary Katz  
Sharon Gillett  
Lisa Gelb  
Vickie Robinson  
Nicholas Degani

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<sup>10</sup> Because of uncertainty at the time the AWCC Petition was filed as to the date the divestiture would be consummated, the AWCC Petition requested that ETC designation be granted as of the date of the *Verizon Wireless-AWCC Order*. The divestiture was consummated on April 26, 2010, so AWCC now asks that its ETC designation in North Carolina be made effective as of that date.